

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of:

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations,
(Iron Mountain, Michigan)

MM Docket No. 95-29
RM - 8596

DOCKET FILE COPY ORIGINAL

To: Chief, Allocations Branch
Policy & Rules Division, Mass Media Bureau

COMMENTS & COUNTERPROPOSAL
OF
NEGAUNEE MINERS RADIO

Comes now Negaunee Miners Radio ("Negaunee"), by Counsel, pursuant to §1.415 of the Commission's Rules and the Notice of Proposed Rule Making ("NPRM"), DA 95-335 (released March 2, 1995), and hereby respectfully submits these Comments & Counterproposal regarding the Commission's proposal in the above-captioned Rule Making proceeding.

Background

1. According to the NPRM, Superior Media Group, Inc. ("SMG") has requested the allotment of Channel 294A to Iron Mountain, Michigan, as that community's third local FM broadcast service. However, Negaunee believes that the public interest would be best served if Channel 294A is allotted to the community of Negaunee, Michigan as that community's first local FM broadcast service. Commission policy supports Negaunee's proposal over that of SMG.

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Counterproposal

2. Negaunee requests that Channel 294A be allotted to Negaunee, Michigan, rather than Iron Mountain, Michigan. The community of Negaunee is more deserving of the allotment of Channel 294A since it currently has no local AM or FM radio service. In comparison, allotment of Channel 294A to Iron Mountain would result in that community's third local FM radio service. Commission policy clearly favors the allotment of a first local radio service over that of a third local radio service. See, *Revision of FM Policies and Procedures*, 90 FCC 2d. 88 (1982).¹

3. The community of Negaunee qualifies as a community worthy of an FCC radio allotment. Negaunee has its own elected government. Negaunee's residents elect a Mayor and a City Council. The City Council appoints a City Manager. Also, Negaunee has its own Police Department, Fire Department and Post Office. According to 1992 census figures, the population of Negaunee is 4,918.² The U.S. Census Bureau

¹ When the Commission must choose between conflicting proposals, a decision should be based upon the following allotment criteria as set forth in *Revision of FM Policies and Procedures*, *supra*:

- (1) first full-time aural service;
- (2) second full-time aural service;
- (3) first local service; and
- (4) other public interest matters.

² The foregoing information about the community of Negaunee was obtained from the Ishpeming-Negaunee Area Chamber of Commerce. Their telephone number is (906) 486-4841.

also lists Negaunee as a separate community. Based upon the foregoing, Negaunee is a community for FCC allotment purposes. See, e.g., *Hannibal, Ohio*, 6 FCC Rcd. 2144, 69 RR 2d 113 (MMB 1991).

4. From a technical standpoint, the allotment of Channel 294A to Negaunee, Michigan, is in compliance with Section 73.202 of the Commission's Rules regarding current spacing requirements. See, attached *Technical Statement of Jefferson G. Brock of Graham Brock, Inc.* According to the Technical Statement, Channel 294A may be allotted to Negaunee without the imposition of a site restriction at reference coordinates North Latitude 46 - 30 - 18 and West Longitude 87 - 36 - 24. From this location, the 3.16 mV/m city-grade contour will encompass the entire city limits of Negaunee.

Statement of Interest

5. Negaunee hereby states that, in the event Channel 294A is allotted to Negaunee, Michigan, it will file an FCC Form 301 Application with the Commission for the issuance of an FM Construction Permit for full-time service on Channel 294A at Negaunee, Michigan.

Conclusion

WHEREFORE, the above premises considered, Negaunee respectfully urges the Commission to ACCEPT these Comments & Counterproposal and AMEND §73.202(b) of the Rules, Table of

Assignments, as follows:

Community	Present	Proposed
Negaunee, MI	---	294A

Respectfully submitted,

NEGAUNEE MINERS RADIO

By: 
Cary S. Tepper

Its Attorney

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(202) 362-1100

April 24, 1995

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

COMMENTS AND COUNTERPROPOSAL
RE PERMIT 625-29
WCAW-TV Kalamazoo RADIO
ALLOT CHANNEL 29.4A
KALAMAZOO, MICHIGAN
April 1995

TECHNICAL EXHIBIT

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COMMENTS AND COUNTERPROPOSAL
MM DOCKET #95-29
NEGAUNEE MINERS RADIO
ALLOT CHANNEL 294A
NEGAUNEE, MICHIGAN
April 1995

TECHNICAL STATEMENT

1. This Technical Statement and attached exhibits were prepared on behalf of Negaunee Miners Radio ("NMR") seeking to allot Channel 294A to Negaunee, Michigan. This proposal is being filed in response to the Notice of Proposed Rulemaking filed by Superior Media Group, Inc ("Superior") seeking the allotment of Channel 294A to Iron Mountain, Michigan. Due to the minimum distance spacing requirements contained in §73.207 of the Commission's regulations, the NMR proposal is mutually exclusive with the Superior request and is therefore being filed as a counterproposal in MM Docket #95-29.

2. Negaunee, Michigan, is located in central Marquette County, Michigan, near the shores of Lake Superior. According to the 1990 Census, Negaunee has a population of 4,741 persons. Negaunee presently has no AM or FM facilities.

3. Channel 294A can be allotted to Negaunee, Michigan, without the imposition of a site restriction at reference coordinates North Latitude 46° 30' 18" and West Longitude 87° 36' 24". Attached as Exhibit #1 is a usable area study for Channel

294A at Negaunee, Michigan, which demonstrates the proposed allotment meets the Commission's minimum distance separation requirements to all licensed, applied for or proposed facilities. Exhibit #1 also demonstrates where a transmitter site for the channel can be located. From this location, Negaunee will receive 3.16 mV/m coverage. Exhibit #2 is a \$73.207 spacing analysis which demonstrates the proposed new channel complies with the Commission's minimum distance spacing requirements.¹

4. Therefore, NMR requests the following amendment to the Commission's FM Table of Allocations:

Negaunee, Michigan	
<u>Present</u>	<u>Proposed</u>
None	294A

PUBLIC INTERESTS

5. The allocation of Channel 294A to Negaunee, Michigan, would provide this community with its first locally licensable radio facility. By comparison, the proposed allocation of Channel 294A to Iron Mountain, Michigan, as requested by Superior would provide that community with its third FM allocation. Also licensed to Iron Mountain is AM station WMIQ, 1450 kHz. The proposed new facility at Negaunee, Michigan, would provide

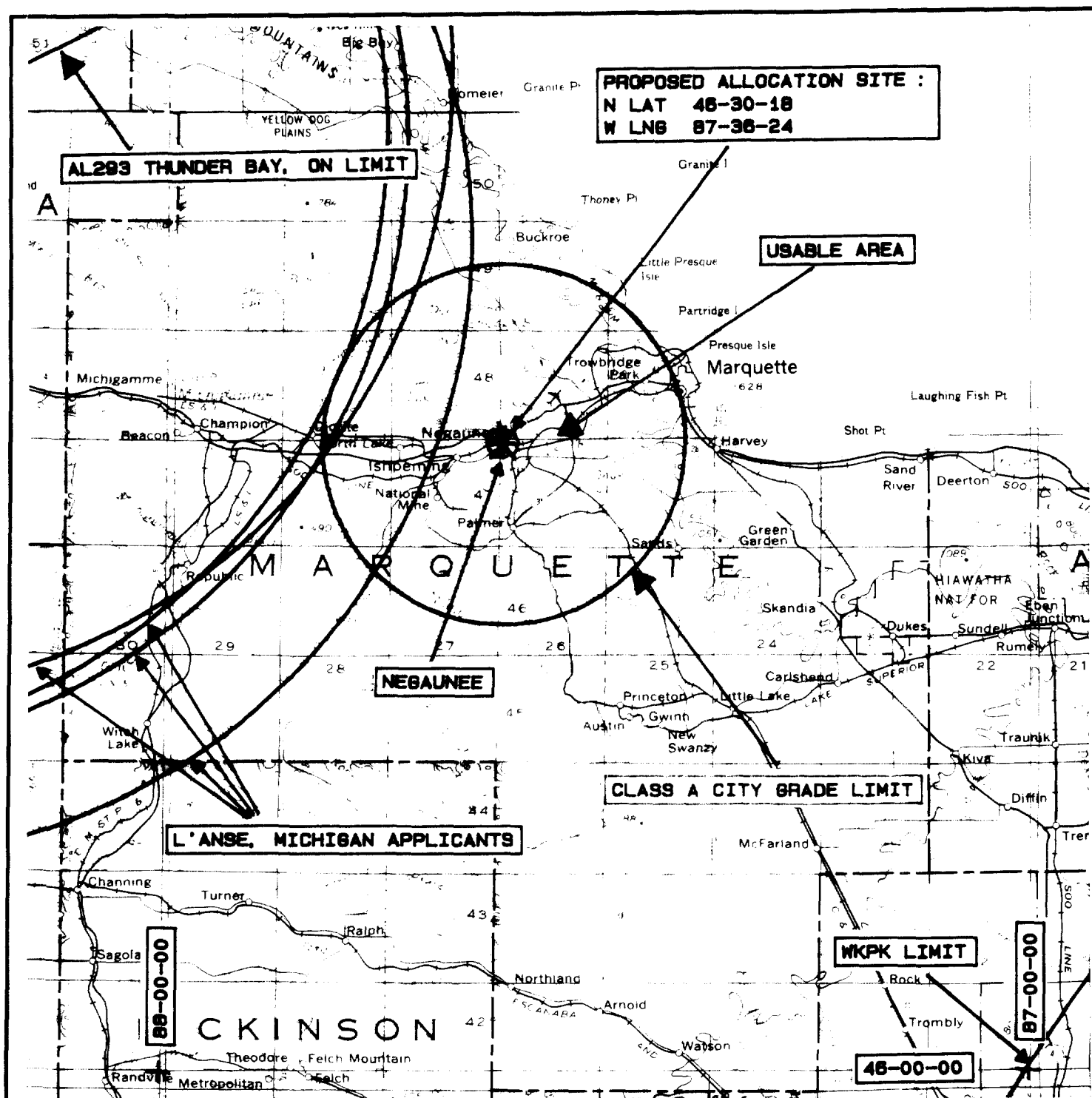
1) With the exception of the proposed allotment of Channel 294A at Iron Mountain, Michigan, as requested by Superior Media Group, Inc.

service to 63,596 persons within a theoretical 1.0 mV/m contour from the proposed reference site.² Therefore, NMR requests the allocation of Channel 294A to Negaunee, Michigan, rather than to Iron Mountain, Michigan.

6. When Channel 294A is allocated to Negaunee, Michigan, NMR will file, on a timely basis, an application for construction permit, seeking authority to construct a new full-time FM radio station on Channel 294A. Upon a grant of that application, NMR will expeditiously construct the facility to provide first local service to the community of Negaunee, Michigan.

7. The foregoing Technical Statement and attached exhibits were prepared on behalf of Negaunee Miners Radio by Graham Brock, Inc., its Technical Consultants. All information contained herein is true and accurate to the best of our belief and knowledge. All data relating to FM facilities and proposals was extracted from the NTIA database, as updated February 24, 1995. We assume no liability for errors or omissions in that database which may be adverse to the requests contained herein.

2) Population figures based on 1990 Census figures from PL 94-171 files.



CHANNEL 294A USABLE AREA

MAP IS A PORTION OF THE 1: 500, 000 SCALE
U.S.G.S. BASE MAP OF MICHIGAN.

SCALE 1: 500, 000

EXHIBIT #1
COMMENTS & COUNTERPROPOSAL
MM DOCKET # 95-29
NEGAUNEE MINERS RADIO
ALLOT CHANNEL 294A
NEGAUNEE, MICHIGAN
April 1995

ALLOCATION STUDY FOR NEW FM STATION NEGAUNEE, MICHIGAN
USING CITY CENTER COORDINATES AS REFERENCE

REFERENCE	CLASS A	DISPLAY DATES
46 30 18 N		DATA 02-24-95
87 36 24 W	Current rules spacings	SEARCH 04-20-95
----- CHANNEL 294 -106.7 MHz -----		

CALL TYPE	CH# LAT	CITY LNG	STATE PWR	BEAR' HT	D-KM D-Mi	R-KM R-Mi	MARGIN (KM)
AD294	294A	Negaunee	MI	0.0	0.0	115.0	-115.00
AD	46 30 18	87 36 24	0.000 kw	OM	0.0	71.5	
Negaunee Miners Radio							
* AD294	294A	Iron Mountain	MI	205.2	84.08	115.0	-30.92
AD	45 49 12	88 04 06	0.000 kw	OM	52.3	71.5	
Superior Media Group							
RM8596 950201							
>PRM-Canadian Concurrence Required							
AP291	291C2	L'Anse	MI	287.8	60.27	55.0	5.27
AP ZCN	46 40 03	88 21 25	50.000 kw	150M	37.5	34.2	
J B Broadcasting, Inc. BPH-930505MD 930831							
AP291	291C2	L'Anse	MI	299.2	67.56	55.0	12.56
AP CN	46 47 52	88 22 48	50.000 kw	150M	42.0	34.2	
L'Anse Broadcasting, Inc. BPH-930505MC 930831							
>Untimely Filed							
AP291	291C2	L'Anse	MI	293.7	68.65	55.0	13.65
AP CN	46 44 57	88 25 48	50.000 kw	16M	42.7	34.2	
WSHN, Inc. BPH-930430MA 930831							
ALOPEN	291C2	L'Anse	MI	293.6	70.54	55.0	15.54
AL N	46 45 18	88 27 12	0.000 kw	OM	43.8	34.2	
MM Docket # 87-331 Window Open 04/26/93 closed 05/07/93							
>Effective 6-9-88							
AL293	293C	Thunder Bay	ON	330.6	244.54	195.0	49.54
AL	48 24 30	89 14 00	0.000 kw	OM	152.0	121.2	
WUPM	295C1	Ironwood	MI	269.7	184.72	133.0	51.72
LI CN	46 28 18	90 00 43	53.000 kw	151M	114.8	82.7	
Big G Little o, Inc. BLH-880929KA							
WKPK	294C1	Gaylord	MI	126.2	269.17	200.0	69.17
LI CN	45 02 42	84 50 44	100.000 kw	177M	167.3	124.3	
Alpine Broadcasting Company BLH-781221AB							

CHANNEL 294A SPACING STUDY

* NOTE : THE PROPOSED ALLOCATION OF CHANNEL 294A AT NEGAUNEE, MI IS MUTUALLY EXCLUSIVE WITH THE PROPOSED ALLOCATION OF THE SAME CHANNEL AT IRON MNT., MI.

EXHIBIT #2

COMMENTS & COUNTERPROPOSAL
MM DOCKET # 95-29
NEGAUNEE MINERS RADIO
ALLOT CHANNEL 294A
NEGAUNEE, MICHIGAN
Apr11 1995

GRAHAM BROCK, INC.

BROADCAST TECHNICAL CONSULTANTS

AFFIDAVIT AND QUALIFICATIONS OF CONSULTANT

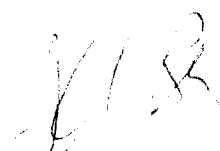
State of Georgia)
St. Simons Island) ss:
County of Glynn)

JEFFERSON G. BROCK, being duly sworn, deposes and says that he is an officer of Graham Brock, Inc. Graham Brock has been engaged by Negaunee Miners Radio to prepare the attached Technical Exhibit.

His qualifications are a matter of record before the Federal Communications Commission. He has been active in Broadcast Engineering since 1979.

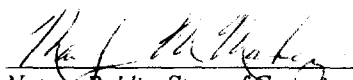
The attached report was either prepared by him or under his direction and all material and exhibits attached hereto are believed to be true and correct.

This the 21st day of April, 1995.



Jefferson G. Brock
Affiant

*Sworn to and subscribed before me
this the 21st day of April, 1995*



Notary Public, State of Georgia
My Commission Expires: September 8, 1995

CERTIFICATE OF SERVICE

I, Cary S. Tepper, Esquire, hereby certify that on this 24th day of April, 1995, I have served a copy of the foregoing "Comments & Counterproposal of Negaunee Miners Radio" first-class, postage-prepaid, on the following:

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Cary S. Tepper, Esq.

*denotes Delivery By Hand